

# **The “Federal Housing Finance Reform Act of 2007” Summary**

## **Title I – Reform of regulation of enterprises and Federal Home Loan Banks**

### **Subtitle A – Improvement of Safety and Soundness**

Establishes the Federal Housing Finance Agency (FHFA), as an independent agency, to regulate Fannie Mae, Freddie Mac, and Federal Home Loan Banks (the regulated entities). FHFA succeeds to the current authority of the Office of Federal Housing Enterprise Oversight (OFHEO) and Federal Housing Finance Board (FHFB).

FHFA is headed by a Director, appointed by the President and confirmed by the Senate for a 5-year term. There are Deputy Directors for Divisions of Enterprise Regulation, Federal Home Loan Bank Regulation, and Housing.

A Housing Finance Oversight Board advises the Agency on overall strategies and policies, but has no executive authority. The Board is comprised of the Secretaries of the Treasury and Housing and Urban Development and the Director as Chairperson.

The agency annually assesses the regulated entities for FHFA’s reasonable costs and expenses; Congressional appropriations approval is not required.

The agency issues and enforces prudential management and operations standards for the regulated entities, including credit, interest rate, and market risks, internal controls, liquidity, and investments.

The agency may require a regulated entity to withhold compensation from an executive officer during a review of the reasonableness and comparability of compensation, and may take into consideration any wrongdoing by the officer.

The agency is given discretion to adjust risk-based capital requirements for the regulated entities to ensure that they operate in a safe and sound manner and maintain sufficient capital and reserves to support the risks of their operations.

The agency may increase the minimum capital levels for the regulated entities through regulation or, if there is a serious safety and soundness concern, temporarily through an order. The agency may also establish capital or reserve requirements with respect to particular programs or activities as the agency considers appropriate. The agency will periodically review the capital maintained by the regulated entities.

The agency establishes standards by which portfolio holdings and growth of portfolio will be deemed consistent with mission and safety and soundness. In developing the standards, the agency considers factors relating to the size of market, liquidity, mission, risk, and other factors related to the safety and soundness and mission of the enterprises. The agency reviews the assets and obligations of each enterprise and may require an enterprise to dispose of or acquire any asset or obligation for safety and soundness or mission-related reasons.

The legislation establishes corporate governance requirements for the composition, operation, and compensation of the board of directors. The enterprises are required to comply with several provisions of the Sarbanes-Oxley Act regardless of their registration status with the SEC.

The regulated entities are required to register at least one class of capital stock with the Securities and Exchange Commission.

The agency is made a member of the Federal Financial Institutions Examination Council.

The Government Accountability Office, in consultation with the agency and federal banking regulators must report to Congress on guarantee fees and analogous practices.

### Subtitle B – Improvement of Mission Supervision

Program and housing goal oversight for Fannie Mae and Freddie Mac (“enterprises”) is transferred from the Department of Housing and Development (HUD) to the new regulator.

The agency has the authority to approve new products. An enterprise may not offer a new product before obtaining the agency’s approval. The agency must act on a request within 30 days after providing a 30 day notice and comment period. A program may only be approved if it is authorized by law, in the public interest, consistent with safety and soundness of the enterprise and the mortgage finance system, and does not materially impair the efficiency of the mortgage finance system. An enterprise must provide the agency prior notice of new activities that are not new products. This does not restrict the Director’s general authority over all programs, activities, and products.

The legislation sets the conforming loan limits and requires the agency to adjust the conforming loan limit according to the annual housing price index maintained by the agency. An additional high-cost area limit is established for areas where the median home price exceeds the general conforming loan limit, up to the lower of 150 per cent of the conforming loan limit or the median cost in that area. Loans in high cost areas above the general conforming loan limit must be securitized. The regulator will conduct a study of whether the securitization requirement raises the cost of high-cost area loans, and may terminate the requirement if it is found to raise costs.

The agency establishes housing goals and an annual home purchase goal for the enterprises. The agency may take enforcement action against an enterprise for failure to meet the housing goals.

The bill creates an “Affordable Housing Fund,” to be managed by the new GSE regulator. Funds are derived through contributions by Fannie Mae and Freddie Mac in amounts equal to 1.2 basis points on each GSE’s total outstanding mortgages (including both those held in portfolio and those securitized) each year from 2007 through 2011. 75% of these funds are used for affordable housing fund purposes, and 25% are allocated to the federal government, to keep the bill deficit neutral.

In 2007 the funds go to Louisiana and Mississippi for affordable housing needs arising out of Hurricanes Katrina and Rita. Thereafter, funds are allocated by formula to the states (including

also D.C., federal territories, and federally recognized tribes). 100% of funds must be used for the benefit of very low and extremely low income families. Funds may be used for rental housing, homeownership and public infrastructure activities in conjunction with housing. The Fund includes a number of provisions to ensure that the funds are used for housing and are not misused or used for other purposes, including a strict prohibition against any funds being used for grantee administrative costs or expenses, political activities, advocacy, lobbying, counseling, travel expense, or preparation or advice on tax returns.

### Subtitle C – Prompt Corrective Action

The legislation establishes capital classifications for the regulated entities and supervisory actions applicable to these classifications, including appointment of the agency as conservator or receiver to reorganize, rehabilitate, or wind up its business. If a regulated entity become critically undercapitalized, the agency must be appointed as receiver if the agency determines that the debts of the entity have exceed its assets for 30 days or the entity has not been paying its debts as they became due for 30 days. A receiver may not revoke an enterprise's charter.

### Subtitle D – Enforcement Actions

The agency may issue cease and desist orders, remove officers, directors, and affiliated parties, and impose civil money and criminal penalties.

The agency is empowered to issue civil money penalties and has the authority to remove management.

### Subtitle E – General Provisions

The size of the Fannie Mae and Freddie Mac boards are reduced from 18 members to between seven and fifteen.

The agency is required to conduct studies on the portfolio operations of the enterprises and on alternative secondary market systems

## **Title II – Federal Home Loan Banks**

Federal Home Loan Bank boards of directors are decreased in size from 14 to 13 members. The cap on director compensation is lifted and the terms of directors are extended from 3 years to 4.

The FHLBs are authorized to establish joint offices to perform functions on a collective basis.

The Federal Home Loan Banks are exempt from some of the disclosures required under the Securities Exchange Act of 1934.

A FHLB is permitted to merge with another FHLB with the approval of its board and the FHFA.

Government-insured depository institutions with assets less than \$1 billion (currently \$500 million) may use Federal Home Loan Bank advances for lending to community development activities (currently small business and agricultural purposes only) and use such secured loans as collateral for advances generally.

### **Title III – Transfer of functions, personnel, and property of OFHEO and Federal Housing Finance Board**

#### **Subtitle A – Office of Federal Housing Enterprise Oversight**

OFHEO is abolished six months after enactment, through an orderly transfer of functions to FHFA. OFHEO regulations and orders remain in effect and are enforceable, until determined otherwise; employees are transferred with temporary protections.

#### **Subtitle B – Federal Housing Finance Oversight Board**

FHFB is abolished six months after enactment, through an orderly transfer of functions to FHFA. FHFB regulations and orders remain in effect and are enforceable, until determined otherwise; employees are transferred with temporary protections.

#### **Subtitle C – Department of Housing and Urban Development**

“Enterprise-related” employees and functions of HUD are transferred to FHFA six months after enactment. HUD regulations and orders concerning the enterprises remain in effect and are enforceable, until determined otherwise; employees are transferred with temporary protections.